# UNITED STATES DISTRICT COURT Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 28, 2018

UNITED STATES OF AMERICA V.
DONALD HOLMES

\*1st AMENDED JUDGMENT IN A CRIMINAL CAS SEAN F. MCAVOY, CLERK

DONALI	HOLMES	Case Number:	4:15CR06044-SMJ-1		
		USM Number:	19100-085		
		Mark J. O'Brid	en		
Date of Original Judgment 12/2	21/17	Defendant's Attorney			
*Modification of Resti	tution Order (18 U.S	S.C. § 3664)			
pleaded guilty to count(s)		Information			
☐ pleaded nolo contendere which was accepted by the	* /				
was found guilty on coun after a plea of not guilty.	nt(s)				
The defendant is adjudicated	d guilty of these offe	enses:			
Title & Section	Nature (	of Offense		Offense Ended	l <u>Coun</u>
18 U.S.C. § 1349	Conspiracy	to Commit Wire Fraud		04/30/15	1
The defendant is sen the Sentencing Reform Act		n pages 2 through 9 of	f this judgment. The ser	ntence is imposed pursuan	ıt to
☐ The defendant has been f	ound not guilty on c	count(s)			
Count(s)			d on the motion of the U		
		tify the United States attorney for this is, and special assessments imposed betates attorney of material changes in	district within 30 days or y this judgment are fully economic circumstance	of any change of name, repaid. If ordered to pay rest.	sidence stitutio
		12/20/2017			
		Date of Imposition of Judgment Signature of Judge	<del>J</del> c		
		The Honorable Salvador Mendon Name and Title of Judge	oza, Jr. Judge, U	.S. District Court	

AO 245B

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Judgment — Page

DEPUTY UNITED STATES MARSHAL

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

# **IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 78 months
This total term of imprisonment consists of 78 months with respect to each of Counts 1 and 2 of the Information. To be served concurred with each other.
Defendant shall receive credit for time served in federal custody prior to sentencing in this matter.
The court makes the following recommendations to the Bureau of Prisons:
Defendant shall participate in the BOP Inmate Financial Responsibility Program.
Court recommends placement of the defendant in a BOP Prison Hospital.
The defendant is remanded to the custody of the United States Marshal.
☐ The defendant shall surrender to the United States Marshal for this district:
□ at □ a.m. □ p.m. on
as notified by the United States Marshal.
☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
as notified by the United States Marshal.
as notified by the Probation or Pretrial Services Office.
RETURN
I have executed this judgment as follows:
Defendant delivered on to
at, with a certified copy of this judgment.
UNITED STATES MARSHAL
UNITED STATES MARSHAL
$R_{ m V}$

Judgment—Page 3 of 9

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

6.

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

3 years

You must participate in an approved program for domestic violence. (check if applicable)

This total term of Supervised Release consists of 3 years with respect to each of Counts 1 and 2 of the Information. To be served concurrent with each other.

### MANDATORY CONDITIONS

1.	You must not commit another federal, state or local crime.
2.	You must not unlawfully possess a controlled substance, including marijuana, which remains illegal under federal law.
3.	You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
	☐ The above drug testing condition is suspended, based on the court's determination that you
	pose a low risk of future substance abuse. (check if applicable)
4.	You must cooperate in the collection of DNA as directed by the probation officer. (check if applicable)
5.	☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, <i>et seq.</i> ) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work are a student, or were convicted of a qualifying offense. ( <i>check if applicable</i> )

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

Judgment—Page 4 of 9

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- 1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4. You must be truthful when responding to the questions asked by your probation officer.
- 5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12. If this judgment imposes restitution, a fine, or special assessment, it is a condition of supervised release that you pay in accordance with the Schedule of Payments sheet of this judgment. You shall notify the probation officer of any material change in your economic circumstances that might affect your ability to pay any unpaid amount of restitution, fine, or special assessments.
- 13. You must follow the instructions of the probation officer related to the conditions of supervision.

# **U.S. Probation Office Use Only**

A U.S. probation officer has instructed me on the conditions specified by the court and has	provided me with a written copy of this
judgment containing these conditions. For further information regarding these conditions, s	ee Overview of Probation and Supervised
Release Conditions, available at: www.uscourts.gov.	•
Defendant's Signature	Date
Defendant's Signature	

Judgment—Page 5 of 9

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

### SPECIAL CONDITIONS OF SUPERVISION

- 1. You must provide the supervising officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office. You must disclose all assets and liabilities to the supervising officer. You must not transfer, sell, give away, or otherwise convey any asset, without the advance approval of the supervising officer.
- 2. You must surrender or make available for review, any documents and/or business records, requested by the supervising officer.
- 3. You must furnish financial information to the Internal Revenue Service (IRS), in order to determine taxes owing. You must file all delinquent and current tax returns as required by law and must pay any outstanding tax liability once assessed, including interest and penalties, either through lump sum or installment payments as approved by the IRS. You must provide a copy of any payment agreement to the supervising officer and must allow reciprocal release of information between the supervising officer and the IRS.
- 4. You must not incur any new debt, open additional lines of credit, or enter into any financial contracts, without the advance approval of the supervising officer.
- 5. You must not engage in any form of gambling (including, but not limited to, lotteries, on-line wagering, sports betting) and you must not enter any casino or other establishment where gambling is the primary purpose (e.g., horse race tracks, off-track betting establishments).
- 6. You must submit your person, residence, office, or vehicle and belongings to a search, conducted by a probation officer, at a sensible time and manner, based upon reasonable suspicion of contraband or evidence of violation of a condition of supervision. Failure to submit to search may be grounds for revocation. You must warn persons with whom you share a residence that the premises may be subject to search.

6 Judgment — Page

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

### **CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

			Assessment	JV	TA Assessment*	<u>Fine</u>		<u>R</u>	estitutio	<u>n</u>
TO	TALS	\$	\$200.00	\$	\$0.00	\$	\$0.00	\$	\$1	5,686,697.57
			tion of restitution in imination.	s deferred	until 1	An Amended	! Judgm	ent in a Crimi	nal Case	e (AO 245C) will be entered
<b>✓</b>	The defe	ndant	must make restitut	ion (inclu	ding community re	estitution) to t	he follo	wing payees in t	he amour	nt listed below.
	If the det the prior before th	fendan ity ord e Unit	t makes a partial p ler or percentage p red States is paid.	ayment, ea ayment co	ach payee shall rec lumn below. How	eive an appro vever, pursuar	ximately nt to 18	y proportioned p U.S.C. § 3664(i	ayment, 1 ), all non	unless specified otherwise i federal victims must be pai
<u>1</u>	Name of 1	Payee				Total Loss	**	Restitution On	dered	Priority or Percentage
Γ	<b>D</b> epartmer	t of th	e Treasury - IRS			\$9,517,	412.50	\$9,517	7,412.50	2nd PRIORITY
*	Murex Ll	LC				\$6,169,	285.07	\$6,169	9,285.07	1st PRIORITY
ТО	TALS		<b>\$</b>		15,686,697.57	\$	15	5,686,697.57		
	Restitut	ion an	nount ordered purs	uant to ple	ea agreement \$ _					
	fifteent	n day a	after the date of the	judgmen		S.C. § 3612(				is paid in full before the a Sheet 6 may be subject
$\checkmark$	The cou	ırt dete	ermined that the de	fendant d	oes not have the ab	oility to pay in	iterest ai	nd it is ordered t	hat:	
	the the	intere	st requirement is w	vaived for	the  fine	restitutio	n.			
	☐ the	intere	st requirement for	the	fine □ resti	itution is mod	ified as	follows:		

<sup>\*</sup> Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

Judgment — Page 7 of 9

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

## **SCHEDULE OF PAYMENTS**

Hav	ing a	ssessed the defendant's ability to pay, payme	ent of the total crim	inal monetary pen	alties are due as follows:			
A								
		not later than in accordance C, D,	, or E, or [	☐ F below; or				
В	$\checkmark$	Payment to begin immediately (may be con	nbined with	C, D, or	F below); or			
C		Payment in equal (e.g., w (e.g., months or years), to con	reekly, monthly, qu	earterly) installment (e.g., 30 or 60	ats of \$days) after the date of this	over a period of s judgment; or		
D		Payment in equal (e.g., w (e.g., months or years), to conterm of supervision; or	reekly, monthly, qu	earterly) installment (e.g., 30 or 60	days) after release from in	over a period of mprisonment to a		
E		Payment during the term of supervised releasimprisonment. The court will set the payment						
F	$\checkmark$	Special instructions regarding the payment	of criminal moneta	ry penalties:				
The	Whi defe	endant shall participate in the BOP Inmate Figure alties are payable on a quarterly basis of not like on supervised release, monetary penalties endant's net household income, whichever is the court has expressly ordered otherwise, if the peroid of imprisonment. All criminal mone inancial Responsibility Program, are made to tention: Finance, P.O. Box 1493, Spokane, Vendant shall receive credit for all payments program.	less than \$25.00 pe are payable on a maless, commencing and his judgment impose tary penalties, except the following add. WA 99210-1493.	nonthly basis of no 30 days after the d es imprisonment, pept those paymenters until monetary	t less than \$25.00 per more than the second serious than the second second serious than the second secon	nth or 10% of the imprisonment.  Stary penalties is due ral Bureau of Prison: Clerk, U.S. Distric		
V	Join	at and Several						
	Defendant and Co-Defendant Names and Case Numbers ( <i>including defendant number</i> ), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.							
	Γ	Oonald Holmes 4:15-CR-6044-SMJ-01	\$9,517,412.50	\$9,517,412.50	Department of the Treas	sury - IRS		
	S	Scott C. Johnson 4:15-CR-6042-SMJ-01	\$9,517,412.50	\$9,517,412.50	Department of the Treas	sury - IRS		
		Richard Estes 4:15-CR-6048-SMJ-01 defendant shall pay the cost of prosecution.	\$4,360,724.50	\$4,360,724.50	Department of the Treas	sury - IRS		
	The defendant shall pay the following court cost(s):							
V	The defendant shall forfeit the defendant's interest in the following property to the United States:  See "Additional Forfeited Property" Sheet.							

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

CASE NUMBER: 4:15CR06044-SMJ-1

(Rev. 11/16) Judgment in a Criminal Case Sheet 6A — Schedule of Payments

Judgment—Page 8 of **DEFENDANT: DONALD HOLMES** 

# ADDITIONAL DEFENDANTS AND CO-DEFENDANTS HELD JOINT AND SEVERAL

Case Number			
Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several <u>Amount</u>	Corresponding Payee, <u>If appropriate</u>
Nancy Bush Estes 4:15-CR-6047-SMJ-01	\$4,360,724.50	\$4,360,724.50	Department of the Treasury - IRS
Thomas Davanzo 2:15-CR-141-UA-MRM-1	\$4,360,724.50	\$4,360,724.50	Department of the Treasury - IRS
(FLM)			
Robert Fedyna 2:15-CR-00141-UA-MRM-2	\$4,360,724.50	\$4,360,724.50	Department of the Treasury - IRS
(FLM)			
*Jin Chul Cha; 4:17-CR-06046-SMJ-01	\$2,506,094.00	\$2,506,094.00	*Department of the Treasury - IRS
*Donald Holmes 4:15-CR-6044-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex, LLC
*Scott C. Johnson 4:15-CR-6042-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex, LLC
*Jin Chul Cha; 4:17-CR-06046-SMJ-01	\$6,169,285.07	\$6,169,285.07	*Murex, LLC

<sup>\*</sup>With respect to the restitution to be paid to

Murex LLC in the reduced amount of

\$6,169,285.07 See Attachment No. 1.

AO 245B

(Rev. 11/16) Judgment in a Criminal Case Sheet 6B — Schedule of Payments

DEFENDANT: DONALD HOLMES CASE NUMBER: 4:15CR06044-SMJ-1

Judgment—Page 9 of 9

### ADDITIONAL FORFEITED PROPERTY

As the result of the guilty plea to Count 1 of the Information for which the USAO sought forfeiture pursuant to 18 U.S.C. § 981(a) (1)(C) and 28 U.S.C. § 2461(c), Defendant Donald Holmes shall forfeit to the United States the sum of \$1,000,000 in U.S. currency, which shall be a money judgment representing the amount of the proceeds obtained from the Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. §§ 1343, 1349, as alleged in an Information, to which the Defendant pled guilty.

# Attachment No. 1

JOSEPH H. HARRINGTON 1 United States Attorney 2 Eastern District of Washington KARLA GEBEL PERRIN 3 Special Assistant United States Attorney 4 SCOTT T. JONES 5 Assistant United States Attorney Post Office Box 1494 6 Spokane, WA 99210-1494 7 Telephone: (509) 353-2767 THOMAS FRANZINGER 8 Trial Attorney Environmental Crimes Section 9 U.S. Department of Justice 10 11 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON 12 13 UNITED STATES OF AMERICA, 14 Plaintiff, 15 Case No: 4:17-cr-6046-SMJ 16 V. United States' Supplemental Calculation of Restitution 17 JIN CHUL CHA (a.k.a. "Jacob Cha"), 18 Defendant. 19 20 Plaintiff, the United States of America, by and through Joseph Harrington, 21 Acting United States Attorney for the Eastern District of Washington, Karla Gebel 22 23 Perrin, Special Assistant United States Attorney for the Eastern District of 24 Washington, Scott T. Jones, Assistant United States Attorney for the Eastern District 25 of Washington, and Thomas Franzinger, Department of Justice Trial Attorney, 26 27 submits the following Supplemental Calculation of Restitution concerning 28 Defendant Jin Chul Cha.

United States' Supplemental Calculation of Restitution - 1

The Government has now obtained consent from victim Murex LLC (Exhibit 1) to accept the restitution calculation proposed by Defendant Cha (Dkt. 53), which lowers the overall claimed restitution amount by \$6644.10. Therefore, the Government does not object to an order of restitution for Count One in the amount of \$6,169,285.07, to be paid joint and severally with *U.S. v. Johnson*, Case No. 4:15-CR-06042-SMJ. The Government's recommendation regarding restitution in the amount \$2,506,094 to the U.S. Treasury for Count Two remains unchanged.

**DATED May 8, 2018** 

JOSEPH H. HARRINGTON United States Attorney

Harly Heled te

Karla Gebel Perrin

Special Assistant United States Attorney

<u>//signed//</u>\_\_\_\_\_

Scott T. Jones

Assistant United States Attorney

//signed//\_\_\_\_\_

Thomas Franzinger

Trial Attorney

# **CERTIFICATE OF SERVICE**

I hereby certify that on May 8, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

//signed//

Thomas Franzinger USDOJ Trial Attorney

## 

From: Jones, Scott (USAWAE)

To: Perrin, Karla (perrin.karla@epa.gov); Franzinger, Thomas (ENRD)

 Subject:
 FW: US v. Cha 17-CR-6046-SMJ

 Date:
 Monday, May 7, 2018 6:15:53 PM

From: Mayther, Amy L. (USAWAE)
Sent: Monday, May 07, 2018 3:07 PM

To: Jones, Scott (USAWAE) <SJones11@usa.doj.gov>

Subject: FW: US v. Cha 17-CR-6046-SMJ

From: Rick Bartel < RBartel@murexltd.com > Sent: Monday, May 07, 2018 2:58 PM

**To:** Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

Subject: RE: US v. Cha 17-CR-6046-SMJ

### Amy,

This is a minor amount. In the interest of moving things along we will accept it without wasting everyone's time.

### Regards,

# Rick Bartel | Chief Financial Officer

MUREX

7160 North Dallas Parkway, Suite 300

Office: 972-735-3308 www.murexltd.com

Plano, TX 75024

Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com

From: Mayther, Amy L. (USAWAE) [mailto:Amy.Mayther@usdoj.gov]

**Sent:** Monday, May 07, 2018 4:53 PM **To:** Rick Bartel <<u>RBartel@murexltd.com</u>>

**Cc:** Jones, Scott (USAWAE) < <a href="mailto:Scott.Jones@usdoj.gov">Scott.Jones@usdoj.gov</a>>

Subject: US v. Cha 17-CR-6046-SMJ

#### Hi Rick,

The defense is objecting to part of your restitution because they allege you applied the wrong average of the prior day's high and low RINs biodiesel price provided by OPIS. They allege this error over-calculates restitution by \$6,644.10.

Attached are their pleading supporting this allegation. Could you please review these documents and provide me with your comments?

Thank you,

### Amy Mayther

Victim-Witness Coordinator United States Attorney's Office Eastern District of Washington P.O. Box 1494 920 West Riverside, Suite 340 Spokane, WA 99201 Direct: 509-835-6314

Office: 509-353-2767 Cell: 509-710-7703

From: Rick Bartel < RBartel@murexltd.com > Sent: Thursday, April 26, 2018 10:54 AM

**To:** Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

Subject: RE: US vine Chula Cha 17-CR-6046-SMJ

Amy,

Thanks.

Regards,

# **Rick Bartel | Chief Financial Officer**

MUREX

7160 North Dallas Parkway, Suite 300

Plano, TX 75024 Office: 972-735-3308 www.murexltd.com

Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com

From: Mayther, Amy L. (USAWAE) [mailto:Amy.Mayther@usdoj.gov]

**Sent:** Thursday, April 26, 2018 11:45 AM **To:** Rick Bartel < RBartel@murexltd.com >

Subject: RE: US v.Jin Chul Cha 17-CR-6046-SMJ

Hi Rick,

Cha was sentenced on April 20<sup>th</sup> to imprisonment of 4 years, 3 months, followed by supervised release of 3 years. The defense attorney asked for more time to review the restitution request from Murex, which the court is allowing. The Court will be scheduling another hearing date for that issue.

I will keep you updated.

Thanks,

# Amy Mayther

Victim-Witness Coordinator United States Attorney's Office Eastern District of Washington P.O. Box 1494 920 West Riverside, Suite 340 Spokane, WA 99201 Direct: 509-835-6314

Office: 509-353-2767 Cell: 509-710-7703

From: Rick Bartel < RBartel@murexltd.com > Sent: Tuesday, March 13, 2018 8:50 AM

**To:** Mayther, Amy L. (USAWAE) < <u>AMayther@usa.doj.gov</u>>

**Cc:** Jennifer LeRow < <u>JLerow@murexltd.com</u>> **Subject:** RE: US v.Jin Chul Cha 17-CR-6046-SMJ

Amy,

Here is the Victim Impact Statement for Defendant Jin Chul Cha.

Please let me know if you need adjustments or changes.

The total amount for all defendants, including defendants Johnson and Holmes, is \$6,175,929.17.

Thanks.

Regards,

Rick Bartel | Chief Financial Officer

MUREX

7160 North Dallas Parkway, Suite 300

Plano, TX 75024 Office: 972-735-3308 www.murexltd.com Please send all invoices & PTDs: ap@murexltd.com; Murex-RINs@murexltd.com